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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,903	04/09/2004	Yoshifumi Kato	5000-5165	2424
27123	7590	12/29/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			PATEL, VIP	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/821,903	Applicant(s) KATO, YOSHIFUMI	
	Examiner Vip Patel	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0404</u> . | 6) <input type="checkbox"/> Other: ____. |

Drawings

The drawings are objected for following reasons.

Figure 5 is not designated by a legend such as "Prior Art". The legend is necessary in order to clarify what applicant's invention is (see MPEP § 608.02g).

Applicant is required to submit a proposed drawing correction, showing changes in red ink, in response to this Office action. However, formal correction of the noted defect(s) can be deferred until the application is allowed by the examiner (see MPEP 608.02v).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 8-9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted prior art/common knowledge in the art and Hamano et al (US 6833667).

Regarding claims 1-2, organic EL display (see figure 5) comprising a transparent substrate (56), a transparent electrode (54), a metal electrode (52), an organic light emitting layer (RGB layers 53) in between the transparent electrode and the organic light emitting layer is commonly known in the art which is also disclosed in prior art figure 5. Further, above described metal electrode inherently has a reflection scattering property since all the physical/structural limitations are disclosed which are claimed by the applicant. Alternatively, Hamano discloses such a metal electrode with bumpy

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surface (as required in claim 2) for the purpose of preventing a decrease in contrast.

Thus, it would have been obvious, at the time the invention was made, to a person having ordinary skill in the art to provide a metal electrode with bumpy surface as taught by Hamano for prior art's device or commonly known device for preventing a decrease in contrast.

As to claim 10, the metal electrode of Hamano has the bumpy surface having bumps (sharp ridges as seen in drawings) as described above. Even though not specifically recited, these bumps have defined height so that reflection is scattered (as shown in figure 4) toward viewing surface. Suitable height for bumps falling within the claimed range may very well be obtained by performing routine experimentation for obtaining maximum brightness of viewing surface.

Regarding claims 8-9, the limitations directed to the process of making the bumpy surface are not deemed positive product limitations. Courts have been holding for quite some time that "--in spite of the fact that a product-by-process claim may recite only process limitations, it is the product which is covered by the claims and not the recited process steps--". (In re Hughes, 182 USPQ 106). Also, "--patentability of a claim to a product does not rest merely on a difference in the method by which the product is made. Rather, it the product itself which must be new and unobvious--". (In re Pilkington, 162 USPQ 147). Accordingly, "--a rejection based alternatively on either section 102 or section 103 of the statute is eminently fair and acceptable--". (In re Brown and Saffer, 173, USPQ 685 and 688). As such, no patentable weight has been given to such process limitations (see MPEP 2113).

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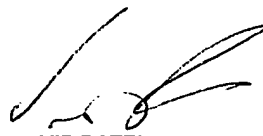
Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted prior art/common knowledge in the art and Park et al (US 2004/0036410 A1).

Park discloses all the limitations of claims 3-7 except plurality of filter regions corresponding to RGB light regions and black matrix around filter regions. However, in the same field of endeavor, Park discloses such corresponding color filters (line 9 of abstract and figures) and black matrix improving color contrast and brightness of the display. Thus, it would have been obvious, at the time the invention was made, to a person having ordinary skill in the art to provide color filters and black matrix as taught by Park in the prior art device for improving color contrast and brightness of a display device.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vip Patel whose telephone number is (571) 272-2458. The examiner can normally be reached on Monday-Thursday. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIP PATEL
PRIMARY EXAMINER
ART UNIT 2879